

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JEFFREY DESKOVIC,

Plaintiff,

vs.

CITY OF PEEKSKILL, ET AL.,

Defendants.

LINDA MCGARR,

Plaintiff,

vs.

CITY OF PEEKSKILL, ET AL.,

Defendants.

CITY OF PEEKSKILL,

Third-Party Plaintiff,

vs.

WESTPORT INSURANCE COMPANY, ET AL.,

Third-Party Defendants.

X

**NOTICE OF MOTION FOR JUDGMENT ON THE PLEADINGS ON "TRIGGER" OF
THIRD-PARTY DEFENDANT INSURERS WHO ISSUED POLICIES TO THE CITY OF
PEEKSKILL EFFECTIVE FROM DECEMBER 31, 1991 TO DECEMBER 31, 1999**

COUNSELORS:

PLEASE TAKE NOTICE THAT, upon the accompanying Declaration of Jessika J. Moon dated June 10, 2013, and the exhibits attached thereto, and the Memorandum of Law in Support of Joint Insurers' Motion for a Judgment on the Pleadings on the Issue of "Trigger,"

Third Party Defendants: (1) Certain Underwriters at Lloyd's, London ("London Insurers")¹, who subscribed severally, not jointly, as their interests appear in certain policies subscribed in favor of the City effective from December 31, 1991 to December 31, 1995; (2) Illinois Union Insurance Company ("Illinois Union"), who issued policies to the City effective from December 31, 1991 to December 31, 1995²; (3) United National Insurance Company ("United"), who issued certain policies to the City effective from December 31, 1995 to December 31, 1999; and (4) Travelers Indemnity Company, as successor-in-interest by merger to Gulf Insurance Company ("Travelers"), who issued policies to the City that sit excess of, and follow form to, the policies issued by London Insurers, Illinois Union and United for the periods effective from December 31, 1991 to December 31, 1999 (collectively, the "Joint Insurers"), will move before the Hon. Kenneth M. Karas at the United States Courthouse, 300 Quarropas Street, White Plains, New York, on a date and at a time designated by the Court, pursuant to Fed. R. Civ. P. 12(c), for an Order dismissing the Joint Insurers from the City's Third Party Actions with prejudice upon the grounds that: the Joint Insurers' policies provide coverage only if both the act giving rise to liability and the resulting injury take place during the specific policy period (December 31, 1991 to December 31, 1999) and as the Deskovic and McGarr complaints allege only specific acts of misconduct taking place in 1990 or before.

PLEASE TAKE FURTHER NOTICE that oral argument is requested on this motion.

PLEASE TAKE FURTHER NOTICE that pursuant to this Court's Order made during the April 30, 2013 hearing, Opposition papers, if any, are to be served on or before July 8, 2013.

¹ "London Insurers" also includes CX Reinsurance Company Limited, as successor-in-interest to both CNA International Reinsurance Company and CNA Reinsurance of London, Limited; RiverStone Insurance (UK) Limited, as successor-in-interest to Sphere Drake Insurance Limited (formerly known as Sphere Drake Insurance PLC); and United National Insurance Company (as to Policy Numbers CP62686 and CP62831 only, as identified on Ex. A to City of Peekskill's Second Amended Third Party Complaints).

² The Illinois Union policies follow form to London Insurers' policies and comprise a 10% subscribing quota-share to the limits of those policies.

New York, New York
Dated: June 10, 2013

Respectfully submitted,

ILLINOIS UNION INSURANCE COMPANY

By its Attorneys,

/s/ Marianne May

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UNDERWRITERS AT LLOYD'S,
LONDON; CX REINSURANCE
COMPANY LIMITED as successor-in-
interest to CNA INTERNATIONAL
REINSURANCE COMPANY; CX
REINSURANCE COMPANY LIMITED
as successor-in-interest to CNA
REINSURANCE OF LONDON,
LIMITED; SPHERE DRAKE
INSURANCE PLC³; and UNITED
NATIONAL INSURANCE COMPANY⁴

By their Attorneys,

TRAVELERS INDEMNITY COMPANY
as successor-in-interest to GULF INSURANCE
COMPANY

By its Attorneys,

/s/ Thomas Martin

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³ RiverStone Insurance (UK) Limited, as successor-in-interest to Sphere Drake Insurance Limited (formerly known as Sphere Drake Insurance PLC).

⁴ Only for United National Policy Numbers CP626686; CPD62686; CP62831; and CPD62831.

UNITED NATIONAL INSURANCE COMPANY

By its Attorneys,

/s/ Jessika J. Moon

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